***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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W.P.NO.21846 OF 2005

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% 28.11.2005

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Between:

A.V.Ramanujam,

Nellore

…Petitioner

AND

APSRTC,

Tandur Bus Depot,

Musheerabad, Hyderabad

and another.

…Respondents

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! Counsel for the Petitioner: Sri G.Vidya Sagar

^ Counsel For The Respondents: Sri R.Manmadha Reddy,

Standing Counsel

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> Head Note:

? CITATIONS:

1. AIR 1998 SC 2713

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

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Dated 28-11-2005

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ORDER:

The petitioner challenges the order dated 21-11-2004 passed by the 2nd respondent, imposing the punishment of stoppage of annual increment for a period of one year, without cumulative effect, as well as the order passed by the 1st respondent dated 16-03-2005, rejecting the appeal preferred by the petitioner.

The petitioner is working as Stores Officer in the Zonal Stores, A.P.S.R.T.C., Nellore. He was issued a charge-sheet, dated 23-04-2003, by the 2nd respondent. It was alleged that the petitioner initiated action for procurement of a product, which was declared not suitable for the Corporation. The petitioner submitted his explanation on 09-05-2003. An Enquiry Officer was appointed and a report was submitted on 20-04-2004. The 2nd respondent issued a notice dated 12-07-2004, inviting the comments of the petitioner to the report of the Enquiry Officer. The petitioner offered his comments on 28-10-2004. Thereafter, the 2nd respondent passed the impugned order.

Learned counsel for the petitioner submits that the product that was procured by the petitioner was of a quality, different from the one, which was prohibited, and that the Corporation did not incur any loss at all. He further contends that the petitioner offered a detailed explanation, pointing out as to how the findings of the Enquiry Officer were not tenable, and despite the same, the 2nd respondent did not indicate as to whether he has accepted the findings of the enquiry officer at all. He places reliance upon the judgment of the Supreme Court in ***Punjab National Bank v. Kunj Behari Misra***.

Learned Standing Counsel for the respondents, on the other hand, submits that the

2nd respondent did not undertake detailed and further discussion on account of the fact that he imposed a minor punishment against the petitioner. He contends that when it was competent for the 2nd respondent to impose that punishment without conducting any enquiry at all, failure to indicate the acceptance or otherwise of the enquiry report, cannot vitiate the proceedings.

The short question in this writ petition is, as to whether the order dated 21-11-2004, passed by the 2nd respondent, suffers from any procedural irregularity. The 2nd respondent issued a charge-sheet against the petitioner and the same was responded to by the petitioner. An enquiry officer was appointed and a report was submitted. On receiving the same, the 2nd respondent forwarded the copy of the report and required the petitioner to offer his comments. To this extent, no irregularity can be said to have taken place, and the proceedings accord with the settled principles of law.

The petitioner offered his comments to the report of the Enquiry Officer. Thereafter, it was obligatory on the part of the 2nd respondent to indicate as to whether he accepted the report of the Enquiry Officer, in its entirety, or in part, or accept the explanation offered by the petitioner, in which case the report was to be ignored. Any further action was to depend upon the nature of opinion that the 2nd respondent ought to have formed. In the impugned order, after referring to the report of the Enquiry Officer and the comments offered by the petitioner, the 2nd respondent straightaway proceeded to impose the punishment, without indicating his opinion as to the same. In ***Punjab National Bank v. Kunj Behari Misra*** (1 supra), the Supreme Court held that whenever the disciplinary authority receives the report of an Enquiry Officer and invites comments of the delinquent official, on the report, he is under obligation to record his own findings, and any failure in this regard would be fatal for the proceedings.

The said principle gets attracted to the facts of this case. The 1st respondent did not appreciate the matter from the proper perspective. Therefore, the writ petition is

allowed, and the impugned orders are set aside. It is however, left open to the 2nd respondent to pass fresh orders, if he so wants, duly following the procedure prescribed by law. There shall be no order as to costs.

Dt.28-11-2005 **L. NARASIMHA REDDY, J.**

Note:

L.R. copy to be marked.

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